

CONTRACT #14
RFS # 343.49-471
FA # 07-17177-00

Department of Health

VENDOR:
Integrated Warehousing
Solutions



STATE OF TENNESSEE
DEPARTMENT OF HEALTH
CORDELL HULL BUILDING
425 5th AVENUE NORTH
NASHVILLE, TENNESSEE 37247

PHIL BREDESEN
MSN, RN,
GOVERNOR

Susan R. Cooper
COMMISSIONER

MEMORANDUM

TO: M. David Goetz, Jr., Commissioner, Dept. of Finance & Administration
James W. White, Executive Director, Fiscal Review Committee

FROM: Susan R. Cooper, MSN, RN, Commissioner, Dept. of Health *SR*

DATE: June 6, 2008

SUBJECT: Non-Competitive Contract Amendment Request

We are requesting approval to execute a Non-Competitive Amendment to the Integrated Warehousing Solutions contract. The amendment's start date will be August 1, 2008, which will be less than 60 days after receipt of this Non-Competitive Amendment Request.

This amendment will purchase needed equipment to continue the growth in the Tennessee Department of Health (TDH) State Pharmaceutical and Laboratory Information Tracking system. Because of the times critical nature of the continued support of this system, it is in the State's best interest to upgrade service.

We will be happy to provide any further information you may wish immediately upon your request. Thank you for your consideration on this Non-Competitive Amendment Request.

SRC;BAR:dg

RECEIVED

JUN 12 2008

FISCAL REVIEW

REQUEST: NON-COMPETITIVE AMENDMENT

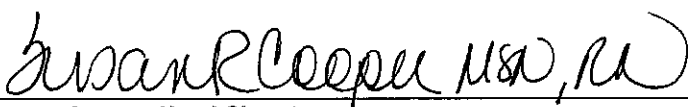
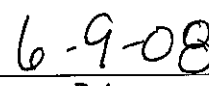
APPROVED

Commissioner of Finance & Administration

Date:

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS #	343.49-471-07		
2) State Agency Name :	Department of Health		
EXISTING CONTRACT INFORMATION			
3) Service Caption :	<u>State Pharmaceutical and Laboratory Information Tracking (SPLIT) system</u>		
4) Contractor :	Integrated Warehousing Solutions		
5) Contract #	FA-07-17177-00		
6) Contract Start Date :			2/1/07
7) <u>Current</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :			8/30/2008
8) <u>Current</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :			\$2,200,600
PROPOSED AMENDMENT INFORMATION			
9) <u>Proposed</u> Amendment #			2
10) <u>Proposed</u> Amendment Effective Date : (attached explanation required if date is < 60 days after F&A receipt)			8/1/08
11) <u>Proposed</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :			8/30/09
12) <u>Proposed</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :			\$2,323,300
13) Approval Criteria : (select one)	<input checked="checked" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service		
14) Description of the Proposed Amendment Effects & Any Additional Service :			
<p>This amendment will purchase needed equipment to continue the growth in the Tennessee Department of Health (TDH) State Pharmaceutical and Laboratory Information Tracking system. To ensure that emergency public health clinics can operate at full capacity and provide the most time efficient mass prophylaxis operations requires the purchase of additional handheld mobile devices. The ability to move patients through high flow emergency clinics at rapid speed is a component of our state and regional yearly preparedness assessments. In order to meet the benchmarks set by the federal government TDH must continue to build our information technology infrastructure.</p>			

15) Explanation of Need for the Proposed Amendment :		
To ensure the monies are budgeted for continued maintenance, modifications and enhancements.		
16) Name & Address of Contractor's Current Principal Owner(s) : (<u>not</u> required if proposed contractor is a state education institution)		
Joshua Vierling, Integrated Warehousing Solutions, 3075 Highland Pwky, suite 715, Downers Grove, IL 60515		
17) Documentation of Office for Information Resources Endorsement : (required <u>only</u> if the subject service involves information technology)		
select one:	<input type="checkbox"/> Documentation Not Applicable to this Request	<input checked="" type="checkbox"/> Documentation Attached to this Request
18) Documentation of Department of Personnel Endorsement : (required <u>only</u> if the subject service involves training for state employees)		
select one:	<input checked="" type="checkbox"/> Documentation Not Applicable to this Request	<input type="checkbox"/> Documentation Attached to this Request
19) Documentation of State Architect Endorsement : (required <u>only</u> if the subject service involves construction or real property related services)		
select one:	<input checked="" type="checkbox"/> Documentation Not Applicable to this Request	<input type="checkbox"/> Documentation Attached to this Request
20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :		
NA		
21) Justification for the Proposed Non-Competitive Amendment :		
At this time we are amending the contract to add monies to cover needed equipment.		
REQUESTING AGENCY HEAD SIGNATURE & DATE : (<u>must</u> be signed & dated by the <u>ACTUAL</u> procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)		
<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 45%;">  </div> <div style="width: 45%;">  </div> </div> <div style="display: flex; justify-content: space-between; align-items: flex-end; margin-top: 5px;"> <div style="width: 45%;">Agency Head Signature</div> <div style="width: 45%;">Date</div> </div>		

083008

**FAX TRANSMITTAL****to Request OIR Procurement Endorsement**

TO : Jane Chittenden, Director
OIR Procurement & Contract Management **FAX # 741-6164**

FROM : Marilyn Brandon, Contract Coordinator **FAX # 615-532-1886**

DATE : May 14, 2008

RFS # 343.49-471

RE : Procurement Endorsement — Integrated Warehouse Solution

NUMBER OF FAX PAGES (including cover) : please see attachments

The nature and scope of service detailed in the attached service procurement document(s) appears to require Office for Information Resources (OIR) review and support, because the procurement involves information technology or information systems services.

This communication seeks to ensure that OIR is aware of the procurement and has an opportunity to review the matter. Please determine whether OIR is supportive of the procurement. If you have any questions or concerns about this matter, please call Debbie Gregory at (615) 253-1367.

Please indicate below your response to this proposed procurement, and return this communication at your earliest convenience (note the return FAX number above).

Thank you for your help.

Attachment(s)

OIR Endorsement :*Mark Bengel (ge)**5/16/08***OIR Chief Information Officer****Date**

CONTRACT SUMMARY SHEET

021908

RFS #				Contract #			
343.49-471-07				FA-07-17177-02			
State Agency				State Agency Division			
Department of Health				Bureau of Health Services Administration			
Contractor Name				Contractor ID # (FEIN or SSN)			
Integrated Warehousing Solutions, LLC				<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 36-4268567-00			
Service Description							
State Pharmaceutical and Laboratory Information (SPLIT) System							
Contract BEGIN Date		Contract END Date		Subrecipient or Vendor?		CFDA #	
1-Feb-07		30-Aug-08		Vendor		93.283	
Mark Each TRUE Statement							
<input checked="" type="checkbox"/> Contractor is on STARS				<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts			
Allocation Code		Cost Center		Object Code		Fund	
343.49		135		139		11	
FY		State		Federal		Interdepartmental	
2007				\$ 987,873.00			
2008				\$ 1,275,977.00			
2009				\$ 59,450.00			
						\$ -	
						\$ -	
						\$ -	
TOTAL		\$ -		\$ 2,323,300.00		\$ 2,323,300.00	
— COMPLETE FOR AMENDMENTS ONLY —				State Agency Fiscal Contact & Telephone #			
FY		Base Contract & Prior Amendments		THIS Amendment ONLY		Crystal Allen 741-9419	
2007		\$ 1,454,000.00		\$ (466,127.00)		State Agency Budget Officer Approval	
2008		\$ 609,100.00		\$ 666,877.00			
2009		\$ 137,500.00		\$ (78,050.00)			
						Funding Certification (certification, required by T.O.A., § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)	
TOTAL		\$ 2,200,600.00		\$ 122,700.00			
End Date							
Contractor Ownership (complete for ALL base contracts— N/A to amendments or delegated authorities)							
<input type="checkbox"/> African American		<input type="checkbox"/> Person w/ Disability		<input type="checkbox"/> Hispanic		<input type="checkbox"/> Small Business	
<input type="checkbox"/> Asian		<input type="checkbox"/> Female		<input type="checkbox"/> Native American		<input type="checkbox"/> Government	
				<input type="checkbox"/> NOT Minority/Disadvantaged		<input type="checkbox"/> Other	
Contractor Selection Method (complete for ALL base contracts— N/A to amendments or delegated authorities)							
<input type="checkbox"/> RFP		<input type="checkbox"/> Competitive Negotiation*		<input type="checkbox"/> Alternative Competitive Method*			
<input type="checkbox"/> Non-Competitive Negotiation*		<input type="checkbox"/> Negotiation w/ Government (ID,GG,GU)		<input type="checkbox"/> Other *			
Procurement Process Summary (complete for Non-Competitive Negotiation, Competitive Negotiation, OR Alternative Method)							

C O N T R A C T S U M M A R Y S H E E T S U P P L E M E N T

Contract Number	FA-07-17177-02						
Fiscal Year	2007						
Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
343.49	135	139	11			93.283	\$987,873
TOTAL							\$987,873

C O N T R A C T S U M M A R Y S H E E T S U P P L E M E N T

Contract Number	FA-07-17177-02						
Fiscal Year	2008						
Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
343.49	135	139	11			93.283	\$581,600
343.49	136	139	11			93.283	\$694,377
TOTAL							\$1,275,977

C O N T R A C T S U M M A R Y S H E E T S U P P L E M E N T

Contract Number	FA-07-17177-02						
Fiscal Year	2009						
Allotment Code	Cost Center	Object Code	Fund	Grant Code	Subgrant Code	CFDA #	Amount
343.49	136	139	11			93.283	\$59,450
TOTAL							\$59,450

**AMENDMENT TWO
TO FA-07-17177-01**

This Contract Amendment is made and entered by and between the State of Tennessee, Department of Health, hereinafter referred to as the "State" and Integrated Warehousing Solutions, hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject Contract is hereby amended as follows:

1. The following provision is added as Contract Section A.9.:

- A.9. Provide forty-eight (48) Handheld Devices which include, Batteries, Single Slot Docks, Power Supply USB Cables, and Emulation Software (Milestone 8).

No later than August 30, 2008, provide to the State forty-eight (48) handheld devices which include Batteries, Single Slot Docks, Power Supply USB Cables, and Emulation Software. The hardware and software shall deliver the functionality as described in Section A.1. above.

- a. To protect personal identifying information, the system must utilize multi-leveled, role-based security modules.
 - b. Handheld devices shall utilize 128-bit encrypted Wired Equivalency Protocol (WEP).
 - c. The system must utilize access rights and permissions to ensure that appropriate personnel can access appropriate data.
 - d. Software shall include application software to allow for manual entry of data, and application software to read and input data scanned from magnetic cards and bar codes.
 - e. Complete documentation of all system components delivered will be provided. Documentation must describe, in a user-friendly manner, what the user needs to know to understand each level (technical, system administrator, power user, average end-user, etc.) on which the software operates.

2. The text of Contract Section C.1., C.3. and E.2. is deleted in its entirety and replaced with the following:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Two Million Three Hundred Twenty Three Thousand Three Hundred Dollars (\$2,323,300). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

<u>SERVICE UNIT/MILESTONE</u>	<u>AMOUNT</u>
Milestone 1 - Design Document and Preliminary Implementation Plan (Section A.2.) Completed no later than March 1, 2007 (amount paid upon completion of the milestone)	\$99,785
Milestone 2 - Provide Handheld Devices & Laptop Servers/Application Software (Section A.3.) Completed no later than April 1, 2007 (amount paid upon completion of the milestone)	\$498,926
Milestone 3 - Provide the ability to generate transactions in standard format (HL7) (Section A.4.) Completed no later than May 1, 2007 (amount paid upon completion of the milestone)	\$498,926
Milestone 4 – Support User Acceptance Test (Section A.5.) Completed no later than May 31, 2007 (amount paid upon completion of the milestone)	\$498,926
Milestone 5 - Completion of Training (Section A.6.) Completed no later than August 1, 2007 (amount paid upon completion of the milestone)	\$399,143
Milestone 6 – Ongoing Maintenance (Section A.7.) Completed during the term of the Contract, but no sooner than June 1, 2007. Ongoing maintenance in a subsequent contract period or periods is contingent on contract extension referenced in section B.2. of this Contract. The proposed rate per month for ongoing maintenance will remain the same for any contract extension. Monthly Rate	\$13,133 Per month
Milestone 7 – Modifications and Enhancements (Section A.8.) Completed during the term of the Contract, but no sooner than June 1, 2007. Ongoing modifications and enhancements in a subsequent contract period or periods is contingent on contract extension referenced in section B.2. of this Contract. The proposed cost per applied labor hour will remain the same for any contract extension. Labor rate per applied labor hour	\$148 Per hour

Milestone 8 – Provide 48 each of the Handheld Devices, Batteries, Single Slot Dock, Power Supply USB Cable, and Emulation Software.

To be purchase no later than August 30, 2008.

\$122,700

The Contractor shall submit invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated. Ongoing maintenance will be billed on a calendar month basis at the end of the month, with the exception of the first and last month, which if less than a full month, may be pro-rated for a partial month.

- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

Brenda Eggert, Administrative Services Manager
Tennessee Department of Health/Communicable & Environmental Disease Services
Cordell Hull Bldg., 1st Floor, 425 5th Avenue North, Nashville, TN 37243
Brenda.Eggert@state.tn.us
Telephone # (615) 741-2006
FAX # (615) 741-3857

The Contractor:

Joshua Vierling, Director of Sales
Integrated Warehousing Solutions, LLC
3075 Highland Parkway, Suite 715, Downers Grove, IL 60515
Telephone Number: (630) 493-7864
Facsimile Number: (630) 353-6916
Email: jvierling@irmswms.com

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

The revisions set forth herein shall be effective August 1, 2008. All other terms and conditions not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF:

INTEGRATED WAREHOUSING SOLUTIONS:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF HEALTH:

SUSAN R. COOPER, MSN, RN, COMMISSIONER

DATE

APPROVED:

**M. D. GOETZ, JR., COMMISSIONER
DEPARTMENT OF FINANCE AND ADMINISTRATION**

DATE

JOHN G. MORGAN, COMPTROLLER OF THE TREASURY

DATE

CONTRACT SUMMARY SHEET

021406

RFS #				Contract #			
343.49-471-07				FA-07-17177-01			
State Agency				State/Agency Division			
Department of Health				Bureau of Health Services Administration			
Contractor Name				Contractor ID # (FEIN or SSN)			
Integrated Warehousing Solution, LLC				<input type="checkbox"/> C- or <input checked="" type="checkbox"/> X <input type="checkbox"/> V- 36-4268567-00			
Service Description							
State Pharmaceutical and Laboratory Information (SPLIT) System							
Contract BEGIN Date		Contract END Date		Subrecipient or Vendor?		CFDA #	
1-Feb-07		30-Aug-08		Vendor		93.283	
Mark Each TRUE Statement							
<input checked="" type="checkbox"/> Contractor is on STARS				<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts			
Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code		
343.49	135	139	11				
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount		
2007		\$ 1,454,000.00			\$ 1,454,000.00		
2008		\$ 609,100.00			\$ 609,100.00		
2009		\$ 137,500.00			\$ 137,500.00		
					\$ -		
					\$ -		
					\$ -		
TOTAL	\$ -	\$ 2,200,600.00	\$ -	\$ -	\$ 2,200,600.00		
— COMPLETE FOR AMENDMENTS ONLY —				State Agency Fiscal Contact & Telephone #			
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Crystal Allen (615) 741-9419				
2007	\$ 1,454,000.00	\$ -	State Agency Budget Officer Approval				
2008	\$ 581,600.00	\$ 27,500.00	<i>Crystal Allen</i>				
2009	\$ -	\$ 137,500.00					
			Funding Certification (certification required by T.O.A. § 9-4-5113 that there is a balance in the appropriation from which the obligated expenditures required to be paid that is not otherwise encumbered to pay obligations previously incurred)				
TOTAL	\$ 2,035,600.00	\$ 165,000.00					
End Date	30-Aug-07	30-Aug-08					
Contractor Ownership (complete only for base contracts with contract prefix FA or GR)							
<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input checked="" type="checkbox"/> NOT disadvantaged			
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> OTHER minority/disadvantaged #				
Contractor Selection Method (complete for ALL base contracts—N/A to amendments or delegated authorities)							
<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation		<input type="checkbox"/> Alternative Competitive Method				
<input type="checkbox"/> Non-Competitive Negotiation	<input type="checkbox"/> Negotiation w/ Government (eg, ID, GG, GU)		<input type="checkbox"/> Other				
Procurement Process Summary (complete for Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)							

JUL 24 2007

**AMENDMENT ONE
TO CONTRACT FA-07-17177-00**

This Contract, by and between the State of Tennessee, Department of Health, hereinafter referred to as the State, and Integrated Warehousing Solutions, hereinafter referred to as the Contractor, is hereby amended as follows:

1. Delete Sections B.1, and C.1. in their entirety and insert the following in their place:
 - B.1. Contract Term. This Contract shall be effective for the period commencing on February 1, 2007 and ending on August 30, 2008. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.
 - C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Two Million Two Hundred Thousand Six Hundred Dollars (\$2,200,600). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

The other terms and conditions of this Contract not amended hereby shall remain in full force and effect.

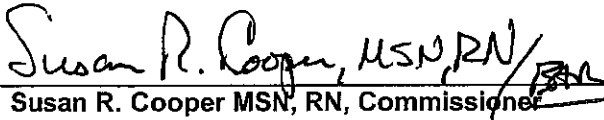
IN WITNESS WHEREOF:

INTEGRATED WAREHOUSING SOLUTIONS, LLC:


Josh Vierling, Director of Sales

7/20/07
Date

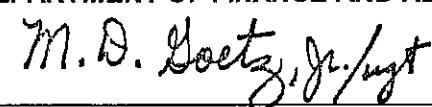
DEPARTMENT OF HEALTH:


Susan R. Cooper MSN, RN, Commissioner

7/9/07
Date

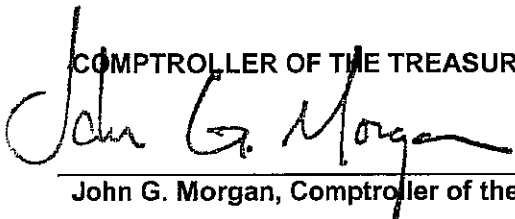
APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:


M. D. Goetz, Jr., Commissioner

AUG 06 2007
Date

COMPTROLLER OF THE TREASURY:


John G. Morgan, Comptroller of the Treasury

8-7-07
Date

CONTRACT SUMMARY SHEET

021406

RFS:		Contract #	
343.49-471-07		FA-07- 17177-00	
State Agency		State Agency Division	
Department of Health		Bureau of Health Services Administration	
Contractor Name		Contractor ID # (FEIN or SSN)	
Integrated Warehousing Solution, LLC		<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 36-4268567-00	
Service Description			
State Pharmaceutical and Laboratory Information (SPLIT) System			
Contract BEGIN Date	Contract END Date	Supplier or Vendor #	CFDA #
1-Feb-07	30-Aug-07	Vendor	93.283
Mark Each TRUE Statement			
<input checked="" type="checkbox"/> Contractor is on STARS		<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts	
Allocation Code	Cost Center	Object Code	Fund
343.49	135	139	11
FY	State	Federal	Interdepartmental
2007		\$ 1,454,000.00	
2008		\$ 581,600.00	
			\$ -
			\$ -
			\$ -
			\$ -
TOTAL	\$ -	\$ 2,035,600.00	\$ -
COMPLETE FOR AMENDMENTS ONLY		State Agency Fiscal Contact & Telephone	
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Crystal Allen (615) 741-9419
2007	107 FEB - 2 AM D 26		State Agency Budget Officer Approval
			<i>Crystal Allen / BAP</i>
			Funding Certification (certification required by T.C.A. § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
TOTAL	\$ -	\$ -	
Contractor Ownership (complete only for base contracts with contract prefix FA or GR)			
<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> NOT disadvantaged
Contractor Selection Method (complete for ALL base contracts - N/A to amendments or delegated authorities)			
<input checked="" type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation		<input type="checkbox"/> Alternative Competitive Method
<input type="checkbox"/> Non-Competitive Negotiation	<input type="checkbox"/> Negotiation w/ Government (eg. ID, GG, GU)		<input type="checkbox"/> Other
Procurement Process Summary (complete for Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)			

FEB - 9

JAN 24 2007

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF HEALTH
AND
INTEGRATED WAREHOUSING SOLUTIONS, LLC**

This Contract, by and between the State of Tennessee, Department of Health, hereinafter referred to as the "State" and Integrated Warehousing Solutions, LLC, hereinafter referred to as the "Contractor," is for the provision of the development and implementation of a system, which will be called the State Pharmaceutical and Laboratory Information Tracking (SPLIT) system, as further defined in the "SCOPE OF SERVICES."

The Contractor is a Limited Liability Company.

The Contractor's address is:

3075 Highland Parkway, Suite 715, Downers Grove, IL 60515

The Contractor's place of incorporation or organization is Illinois.

A. SCOPE OF SERVICES:

The Contractor agrees to:

- A.1. Develop and implement a system that will automate certain data capture functions that are especially labor intensive and that are critical in responses to public health emergencies. The functions to be automated are the transactions involving medication stocks, basic patient demographic data registration, medication dispensing, and lab sample preparation, identification, and handling. The processes and equipment developed and/or acquired through this contract will be operated by the State to support daily operations in public health clinics and pharmacies, using standard transactions, and will be portable and scalable for application to public health emergencies. Upon implementation this system will:
- a. Utilize handheld devices with 2D bar code scanning capabilities that will collect and update inventory as it is received and/or shipped at multiple sites.
 - b. Utilize handheld devices with 2D bar code scanning capabilities that will be used to scan a patient's VISA, MasterCard, Discover card, or Tennessee driver's license to retrieve demographic data and generate a registration record.
 - c. Utilize handheld devices or wedge devices with 2D bar code scanning capabilities to scan bar codes on medications issued to patients.
 - d. Provide the ability to request lab tests for patients, assign a unique lab order ID, generate the lab order, and generate a bar code label with the unique lab order ID to identify a specific sample taken from a patient.
 - e. Generate internal control reports including, but not limited to, medication inventory management reports (accountability, administration, transactions), inventory projection based on previous patterns of use, site utilization reports (number of units shipped, allocation limits, pending requests), and patient tracking.

- f. Provide the ability to manually enter data via handheld devices in addition to ID scanning.
- g. Include an inventory function for use during an emergency for receipt, staging, and storage of the State's medication cache or the Centers for Disease Control and Prevention's (CDC) Strategic National Stockpile (SNS).
- h. Generate transactions in standard format (HL7) for communication to and from other State systems. These transactions will include patient registration, treatment (drug dispensing and encounters), lab orders and results, pharmaceutical inventory (receipt/issue), and immunizations.

A.2. Design Document and Preliminary Implementation Plan (Milestone 1)

No later than February 5, 2007, present a Design Document and a Preliminary Implementation Plan to the State that, at a minimum, provides the functions listed in A.1. above, and shows proof of the ability to exchange standard transactions with existing software applications, the ability to meet State customization requirements, proof of system compatibility with State hardware and software standards for items of technology for which standards exist, and conformance to the State's Technical Architecture "Tennessee Information Resources Architecture" (available by contacting Debbie Gregory, Contract Specialist Communicable and Environmental Disease Services, Cordell Hull Building, 4th Floor, 425 Fifth Avenue, North, Nashville, TN 37247-4401, Telephone Number: (615) 253-1367, Facsimile Number: (615) 741-3857, E-Mail Address: Deborah.A.Gregory@state.tn.us). The Implementation Plan shall include a project schedule in Microsoft Project format.

- a. The preliminary Implementation Plan shall, at a minimum, include timeframes and associated tasks for systems development.
- b. The final Implementation Plan must be submitted no later than March 1, 2007, and include any necessary mutually agreed upon revisions made to the preliminary Implementation Plan.
- c. The design document must include a general systems design, detailed systems design, and an architectural configuration with a complete definition of all hardware and software, with versions.

A.3. Provide Handheld Devices and Laptop Servers/Application Software (Milestone 2)

No later than April 1, 2007, provide to the State three hundred fifty four (354) handheld devices and one hundred eighteen (118) laptop servers with wireless technology with application software installed. The hardware and software shall deliver the functionality as described in Section A.1. above, and shall be delivered in accordance with the Implementation Plan described in Section A.2. above.

- a. To protect personal identifying information, the system must utilize multi-leveled, role-based security modules.
- b. Handheld devices shall utilize 128-bit encrypted Wired Equivalency Protocol (WEP).
- c. The system must utilize access rights and permissions to ensure that appropriate personnel can access appropriate data.

- d. Software shall include application software to allow for manual entry of data, and application software to read and input data scanned from magnetic cards and bar codes.
- e. Complete documentation of all system components delivered will be provided. Documentation must describe, in a user-friendly manner, what the user needs to know to understand each level (technical, system administrator, power user, average end-user, etc.) on which the software operates.

A.4. Provide the ability to generate transactions in standard format (HL7) (Milestone 3)

- a. No later than May 1, 2007, provide the ability to generate transactions in standard format (HL7). The software shall deliver the functionality as described in Section A.1. above, and shall be delivered in accordance with the Implementation Plan described in Section A.2. above.
- b. Complete documentation of all system components delivered will be provided. Documentation must describe, in a user-friendly manner, what the user needs to know to understand each level (technical, system administrator, power user, average end-user, etc.) on which the software operates.
- c. Demonstrate the capability of exchanging transactions with the Electronic Document Interchange (EDI) Interface Engine operated by the Tennessee Department of Health (Quovadx Cloverleaf software operating on a Sun Solaris server).

A.5. Support User Acceptance Test (Milestone 4)

No later than May 31, 2007, provide technical support during an initial testing of functionality, which shall include a User Acceptance test, to test the functionality of the system as described in Section A.1. listed above.

A.6. Completion of Training (Milestone 5)

- a. No later than June 1, 2007 submit a draft Train-the-Trainer training plan and user guide to the State for review and approval.
- b. No later than July 2, 2007, the Contractor shall submit one (1) final Train-the-Trainer training plan, one (1) user guide in electronic format (Microsoft Word), and thirty-five (35) hard copies of the user guide to the State.
- c. No later than August 1, 2007, the Contractor shall complete Train-the-Trainer training at up to three (3) locations and for no less than a total of thirty-five (35) personnel designated by the State.

A.7. Ongoing Maintenance (Milestone 6)

Following delivery of Milestone # 4 and throughout the remaining term of the Contract, the Contractor will provide operational support by providing for hardware and software maintenance, as described below:

- a. Make necessary adjustments and repairs to keep the software operating without abnormal interruptions and to correct latent deficiencies with respect to software specifications.

- b. During ordinary State operation of the hardware and software, provide support and maintenance services between the hours of 8:00 a.m. and 5:00 p.m. Central Time, Monday through Friday, excluding State holidays.
- c. During ordinary State operation of the hardware and software, respond to hardware or software problems that could cause a malfunction that would hinder the system from performing the functions for which it was intended within 8-hours of request.
- d. During ordinary State operation of the hardware and software, respond to requests for information and provide technical support for requests from project management staff within eight hours (Monday through Friday, 8:00 a.m. through 5:00 p.m. Central Time, excluding State holidays), by either correcting the problem, or providing technical support or information as requested, or providing a plan, including a delivery date, for the information or support requested.
- e. During a Public Health Emergency or other emergency situation as determined by the State, response to problems, requests for technical support, or requests from the State's project management staff for information shall be provided immediately by phone, by either correcting the problem, or providing technical support or information as requested, or providing a plan, including a delivery time of no later than 8-hours from the time of the request, for the support or information requested. ***This is without regard to regular State working hours or working days.***
- f. Make all necessary modifications, adjustments, and repairs to keep the software operating in compliance with applicable federal laws and regulations.
- g. Maintain software for the current operating system environment, Windows Server 2003, for the term of the contract.
- h. Maintain a copy of the State's current production version of software on the Contractor's computer.
- i. Provide, during the life of the Contract, new versions of the software that incorporate improvements in design, correction of latent defects, and enhancements to the software. Complete documentation of all system enhancements or revisions will be provided with new releases of software. Documentation must describe, in a user-friendly manner, what the user needs to know to understand each level (technical, system administrator, power user, average end-user, etc.) on which the software operates.

A.8. Modifications and Enhancements (Milestone 7)

Following delivery of Milestone # 4 and throughout the remaining term of the Contract, the Contractor will provide enhancements to the software requested and approved by the State, using the "Modification and Enhancement Process" as defined in A.10.c. below.

- A.9. Beginning on the contract start date, and every two weeks thereafter until completion of Milestone # 6, submit to the State an update to the Implementation Plan and a hard copy progress report indicating the status of implementation and training, which at a minimum, will include problems encountered with implementation, problem resolution, individuals trained and the date of training, training documentation provided, and an overall project status.

A.10. The State:

- a. Agrees to review and request any necessary revisions to the Design Document and Preliminary Implementation Plan no later than February 15, 2007.
- b. Agrees to review training plans and user guides for Train-the-Trainer staff and request any necessary revisions no later than June 15, 2007.
- c. May request modifications and enhancements to the software using the "Modification and Enhancement Process" as defined below. All such modifications and enhancements will be developed consistent with and will operate with the existing software at no loss of function to the existing software.

Modification and Enhancement Process: A five-step process used to define, specify, develop, test, and implement changes to the software. The five steps are (1) the State prepares specifications for a modification or enhancement, (2) the Contractor prepares an estimate for the delivery date and cost, at the contract rates, for development of the software, (3) the State accepts the estimate and authorizes the work, (4) the Contractor delivers the software product or change as defined elsewhere, and (5) the State accepts the software product or change.

- d. Shall test modifications and enhancements within thirty (30) business days of the later of delivery or notice of delivery. If the delivery of the software is not contested within those thirty (30) business days, it will be deemed delivered for purpose of payment of invoice.
- e. Will endeavor to give the Contractor at least thirty (30) business days advance notice of the need for technical assistance requests. If the State is unable to give thirty (30) business days advance notice, the Contractor shall make reasonable efforts to provide the requested assistance, but in any event, must respond to requests for assistance as described in A.7.d. There shall be no additional charges for the provision of technical advice as described herein.
- f. May request technical assistance after hours and/or on weekends under certain circumstances, including but not limited to a public health emergency in which critical timelines must be met to distribute Strategic National Stockpile (SNS) assets, an exercise involving the centers for Disease Control and Prevention's (CDC) SNS staff, any disease outbreak for which pharmaceuticals must be distributed, etc. In any event, the Contractor must respond to requests for assistance as described in A.7. There shall be no additional charges for the provision of technical advice as described herein.
- g. Shall stay within one year of current release of the application software.
- h. Shall provide the Contractor necessary access to the software and equipment on which it runs in order to effect necessary adjustments and repairs.

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on February 1, 2007 and ending on August 30, 2007. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.
- B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that the State notifies the Contractor in writing of its intention to do so at least thirty (30) days prior to the contract expiration date. An extension of the term of this Contract will be effected through an amendment to the Contract. If the extension of the Contract necessitates additional funding beyond that which was included in the original Contract, the increase in the State's maximum liability will also be effected through an amendment to the Contract and shall be based upon rates provided for in the original contract.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Two Million Thirty Five Thousand Six Hundred Dollars (\$2,035,600). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The Service Rates and the Maximum Liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the Service Rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1. The Contractor's compensation shall be contingent upon the satisfactory completion of units of service or project milestones defined in Section A. The Contractor shall be compensated based upon the following Service Rates:

<u>SERVICE UNIT/MILESTONE</u>	<u>AMOUNT</u>
Milestone 1 - Design Document and Preliminary Implementation Plan (Section A.2.) Completed no later than March 1, 2007 (amount paid upon completion of the milestone)	\$99,785
Milestone 2 - Provide Handheld Devices & Laptop Servers/Application Software (Section A.3.) Completed no later than April 1, 2007 (amount paid upon completion of the milestone)	\$498,926
Milestone 3 - Provide the ability to generate transactions in standard format (HL7) (Section A.4.) Completed no later than May 1, 2007 (amount paid upon completion of the milestone)	\$498,926
Milestone 4 - Support User Acceptance Test (Section A.5.) Completed no later than May 31, 2007 (amount paid upon completion of the milestone)	\$498,926
Milestone 5 - Completion of Training (Section A.6.) Completed no later than August 1, 2007 (amount paid upon completion of the milestone)	\$399,143
Milestone 6 - Ongoing Maintenance (Section A.7.) Completed during the term of the Contract, but no sooner than June 1, 2007. Ongoing maintenance in a subsequent contract period or periods is contingent on contract extension referenced in section B.2. of this Contract. The proposed rate per month for ongoing maintenance will remain the same for any contract extension. Monthly Rate	\$13,133 Per month
Milestone 7 - Modifications and Enhancements (Section A.8.) Completed during the term of the Contract, but no sooner than June 1, 2007. Ongoing modifications and enhancements in a subsequent contract period or periods is contingent on contract extension referenced in section B.2. of this Contract. The proposed cost per applied labor hour will remain the same for any contract extension. Labor rate per applied labor hour	\$148 Per hour

The Contractor shall submit invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Such invoices shall be submitted for completed units of service or project milestones for the amount stipulated. Ongoing maintenance will be billed on a calendar month basis at the end of the month, with the exception of the first and last month, which if less than a full month, may be pro-rated for a partial month.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such

payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.

- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.
- C.9. Retention of Final Payment. An amount of Two Hundred Three Thousand Five Hundred Seventy One Dollars (\$203,571), representing ten percent (10%) of the maximum total compensation payable under this Contract, shall be withheld by the State until thirty (30) days after final completion of the services to be performed by the Contractor under this Contract.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.

- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document as Attachment 1, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the contractor and made available to state officials upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the contractor and made available to state officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or

submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this contract.

- e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.

- D.9. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.

- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under **Tennessee Code Annotated**, Sections 9-8-101 through 9-8-407.
- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

Allen S. Craig, M.D., State Epidemiologist
Communicable and Environmental Disease Services
3rd Floor, Cordell Hull Building
425 Fifth Avenue, North
Nashville, TN 37243-4401
Telephone Number: (615) 741-7247
Facsimile Number: (615) 532-8526

The Contractor:

Joshua Vierling, Director of Sales
Integrated Warehousing Solutions, LLC
3075 Highland Parkway, Suite 715, Downers Grove, IL 60515
Telephone Number: (630) 493-7864
Facsimile Number: (630) 353-6916
Email: jvierling@irmswms.com

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. State Ownership of Deliverables. The State shall have ownership, right, title, and interest, including ownership of copyright, in all work products created, designed, developed, derived, documented, and required to be delivered ("Deliverables") to the State under this Contract subject to the next subsection and full and final payment for each such Deliverable. The State shall have unlimited, royalty-free, non-exclusive license and right to use, copy, disclose, modify, maintain, or create derivative works from, for any purpose whatsoever, all said Deliverables.
- a) To the extent that the Contractor uses any of its pre-existing, proprietary or independently developed tools, materials or information ("Contractor Materials"), the Contractor shall retain all right, title and interest in and to such Contractor Materials, and the State shall acquire no right, title or interest in or to such Contractor Materials EXCEPT for the license expressly granted in this section. The Contractor grants to the State an unlimited, non-transferable license to use, copy and distribute internally, solely for the State's internal purposes, any Contractor Materials reasonably associated with any Deliverables provided under the Contract.
 - b) Upon request of the State, the Contractor shall furnish such information and data, including but not limited to computer code, that is applicable, essential, fundamental, or intrinsic to any Deliverables and Contractor Materials reasonably associated with any Deliverables in accordance with this Contract and applicable state law.
 - c) The State grants to the Contractor a perpetual, worldwide, fully paid up, non-exclusive right and license to copy, prepare derivative works based on, deliver, publish, perform, display, dispose of, modify, improve, use, sell and sublicense any Deliverables provided under this Contract. Further, the Contractor retains the right to use the general ideas, concepts and know-how of Contractor developed during performance of this Contract, without obligation of notice or accounting to the State. This Contract shall not preclude Contractor from (1) independently developing materials outside this Contract that are competitive, irrespective of their similarity to materials which might be delivered to the State hereunder; or (2) providing consulting or other services of any kind or nature whatsoever to any individual or entity as Contractor in its sole discretion deems appropriate.

E.5. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:

- a. The Contract document and its attachments
- b. All Clarifications and addenda made to the Contractor's Proposal
- c. The Request for Proposal and its associated amendments
- d. Technical Specifications provided to the Contractor
- e. The Contractor's Proposal

In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

E.6. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

E.7. Public Funding Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Contractor relative to this Contract shall include the statement, "This project is funded under an agreement with the State of Tennessee." Any such notices by the Contractor shall be approved by the State.

E.8. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.

E.9. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public

domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.10. Copyrights and Patents. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State for infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract. In any such action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any final judgment for infringement. The Contractor further agrees it shall be liable for the reasonable fees of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State. The State shall give the Contractor written notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof.
- E.11. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- E.12. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by **Tennessee Code Annotated**, Section 8-6-106.

- E.13. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in ***Tennessee Code Annotated***, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to ***Tennessee Code Annotated***, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.14. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.
- E.15. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.
- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits

the State to receive such information without entering into a business associate agreement or signing another such document.

- E.16. CFDA Number(s). When applicable, the Grantee shall inform its licensed independent public accountant of the federal regulations that are to be complied with in performance of an audit. This information shall consist of the following Catalog of Federal Domestic Assistance Numbers:

93.283 – Public Health Emergency Preparedness

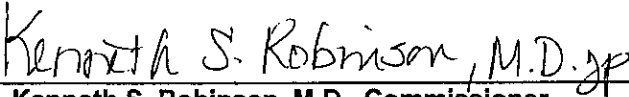
IN WITNESS WHEREOF:

INTEGRATED WAREHOUSING SOLUTIONS, LLC:


Josh Vierling, Director of Sales

1-23-07
Date

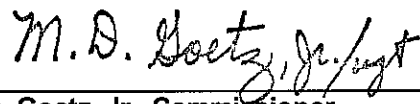
DEPARTMENT OF HEALTH:


Kenneth S. Robinson, M.D., Commissioner

1-19-07
Date

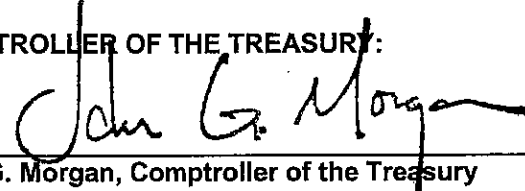
APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:


M. D. Goetz, Jr., Commissioner

FEB 01 2007
Date

COMPTROLLER OF THE TREASURY:


John G. Morgan, Comptroller of the Treasury

2/6/07
Date

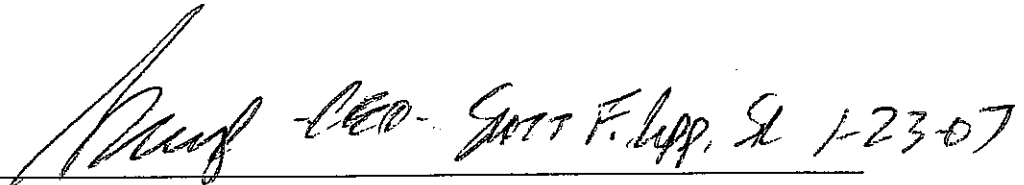
ATTACHMENT 1

ATTESTATION RE PERSONNEL USED IN CONTRACT
PERFORMANCE

SUBJECT CONTRACT NUMBER:	Integrated Warehousing Solutions, LLC
CONTRACTOR LEGAL ENTITY NAME:	36-4268567
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

SIGNATURE &
DATE:



NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.